



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/855,798	05/16/2001	Tetsuya Ishihara	06753.0446	1536

22852 7590 12/20/2004

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
LLP
1300 I STREET, NW
WASHINGTON, DC 20005

EXAMINER

NORRIS, TREMAYNE M

ART UNIT	PAPER NUMBER
----------	--------------

2137

DATE MAILED: 12/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/855,798

Applicant(s)

ISHIHARA ET AL.

Examiner

Tremayne M. Norris

Art Unit

2137

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 May 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 May 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>8/16/02</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, all claim limitations in claims 1-6 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1 and 4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 provides for the use of a method for cryptographic communication, but, since the claim does not set forth any steps involved in the method/process, it is unclear what method/process applicant is intending to encompass. A claim is indefinite where it merely recites a use without any active, positive steps delimiting how this use is actually practiced.

Claims 5 and 6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims that claim both method and system steps of using an apparatus are indefinite under 35 U.S.C. 112 second paragraph.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Art Unit: 2137

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 1 is rejected under 35 U.S.C. 101 because the claimed recitation of a use, without setting forth any steps involved in the process, results in an improper definition of a process, i.e., results in a claim which is not a proper process claim under 35 U.S.C. 101. See for example *Ex parte Dunki*, 153 USPQ 678 (Bd.App. 1967) and *Clinical Products, Ltd. v. Brenner*, 255 F. Supp. 131, 149 USPQ 475 (D.D.C. 1966).

Claims 5 and 6 rejected under 35 U.S.C. 101 because theses claims are directed to neither a process nor a machine, but rather embraces or overlaps two different statutory classes of invention set forth in 35 U.S.C. 101. Claims 5 and 6 are method claims that depend from system claims.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Art Unit: 2137

3. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Gutowitz (US pat 5).

Regarding claim 1, Italia teaches a cryptographic communication method for use in cryptographic communication of information through communication line among plural CPUs (col.22 lines 31-47: sender and receiver) wherein

cryptographic algorithms containing chaos block encryption and chaos stream encryption are installed in each of said plural CPUS and

said plural CPUS carry out cryptographic communication of information by combining said chaos block encryption and said chaos stream encryption (col.10 lines 3-11; col.32 line 50 thru col.33 line 8; col.33 lines 41-51; col.34 lines 38-52)

Regarding claim 2, Italia teaches a cryptographic communication system constructed by

connecting plural CPUS through communication line for carrying out cryptographic communication among the CPUS (col.10 lines 60-65), wherein

said plural CPUS, after enciphering a plaintext code which is a secrecy object by chaos block encryption, encipher by chaos stream encryption and transmits an obtained cipher code, and

after synchronously restoring a received cipher code by said chaos stream encryption, restore by said chaos block encryption so as to obtain an original plaintext

Art Unit: 2137

code (col.10 lines 3-11; col.32 line 50 thru col.33 line 8; col.33 lines 41-51; col.34 lines 38-52).

Regarding claim 3, Italia teaches a cryptographic communication system constructed by connecting plural CPUS through communication line for carrying out cryptographic communication among the CPUS, wherein

said plural CPUS, after enciphering a plaintext code which is a secrecy object by chaos block encryption, encipher by chaos stream encryption and transmits an obtained cipher code (col.32 line 50 thru col.33 line 8), and

after synchronously restoring a received cipher code by said chaos stream encryption, verify a block cipher key and after it is certified that it is a legal access, restore by said chaos block encryption so as to obtain an original plaintext code (col.10 lines 3-11; col.32 line 50 thru col.33 line 8; col.33 lines 41-51; col.34 lines 38-52).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gutowitz, and further in view of Italia et al (US pat 6,792,111).

Art Unit: 2137

Regarding claim 4, Gutowitz teaches the method of claim 1, but does not teach respective data bases for a cipher key, a cipher table and a restoration table in said chaos block encryption is controlled unitarily by providing with an appropriate initial value $x(0)$. Italia teaches respective data bases for a cipher key, a cipher table and a restoration table in said chaos block encryption is controlled unitarily by providing with an appropriate initial value $x(0)$ (col.2 lines 20-26; col.7 lines 38-56). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Gutowitz with Italia in order to provide a cryptography system based on chaotic models that possesses enhanced security (Italia col.2 line 65 thru col.3 line 12).

Claims 5 and 6 are substantially equivalent to claim 4, therefore claims 5 and 6 are rejected for the same reasons.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tremayne M. Norris whose telephone number is (571) 272-3874. The examiner can normally be reached on M-F 7:30AM-5:00PM alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Caldwell can be reached on (571) 272-3868. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.


Art Unit: 2137

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Tremayne Norris

November 29, 2004




Andrew Caldwell